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February 7, 2019

Via Email

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Re: **United States v. Kealoha, et al.**,
Case No. 17CR00582-JMS-RLP (D. Hawaii)

Dear Counsel:

We are writing to provide notice of testimony and evidence potentially covered by Federal Rules of Evidence 702, 404(b), 901(11), and 1006. We hereby request reciprocal discovery, including written summary of any experts you may call at trial, as required by Federal Rule of Criminal Procedure 16(b)(1)(C).



Letter to Counsel

U.S. v. Katherine Kealoha, et al., 17CR0582-JMS

February 7, 2019

Page 2 of 5

1. *Notice of testimony potentially covered by Fed. R. Evid. 702*

Although evidence offered by the following witnesses may not constitute expert testimony under Rule 702, we are nonetheless providing the following information out of an abundance of caution.

a. Forensic Document Examiner David Oleksow

On November 17, 2017, the United States provided you with a written summary of expert testimony by David Oleksow that will be introduced at trial pursuant to Fed. R. Evid. 702, 703, and 705. *See* KEALOHA-OLEKSOW-000001-000208. Among the documents produced at that time were Mr. Oleksow's resume, reports, and exhibits. Accompanying this letter is another report produced by Mr. Oleksow, produced in July 2019. KEALOHA-OLEKSOW-000001-000209 to 216. The United States may call Mr. Oleksow to offer some or all of the opinions proffered in these reports.

Mr. Oleksow has been a forensic document examiner for over 35 years, and is certified by the American Board of Forensic Document Examiners (ABFDE). Between 2006 and 2010, Mr. Oleksow held various positions on the ABFDE Board, including serving as the Board's President. Throughout his career, Mr. Oleksow has worked as a document examiner for the San Diego Police Department Crime Laboratory, the San Diego Sheriff's Department Crime Laboratory, and Forensic Science Laboratories, LLC. Since 2006, Mr. Oleksow has worked in private practice as a document examiner. In all, since 1975, Mr. Oleksow has examined more than 14,000 document cases in criminal investigations and prosecution and civil litigation. Mr. Oleksow has testified as an expert in this area numerous times.

The process of examining signatures and handwriting involves a detailed analysis of the handwriting characteristics of the known writer compared to questioned signatures and handwriting. That examination includes consideration of letter formations, angularity of the letter forms, slant of the writing, baseline habits, directional movements, height ratios of letters, pen breaks between letter forms, hesitations, retracing, and more.

Using methods generally accepted by experts in his field, Mr. Oleksow personally obtained known samples of the handwriting of Katherine Kealoha ("K. Kealoha"), requiring her to write numerous copies of letters, numbers, and relevant words. Mr. Oleksow then performed a side-by-side comparison of K. Kealoha's known handwriting and the questioned documents. The documents compared, and the results of those comparisons, are detailed in the reports produced in discovery.

b. Product Engineer Derrick Dry

On November 17, 2017, the United States provided you with a written summary of anticipated testimony by Derrick Dry, formerly a Product Engineer and Design and Development Manager for Gibraltar Industries – the company that manufactured the mailbox allegedly stolen from out front of the Kealohas' residence in June 2013. *See, e.g.*, KEALOHA-REPORTS-028421

Letter to Counsel

U.S. v. Katherine Kealoha, et al., 17CR0582-JMS

February 7, 2019

Page 3 of 5

through KEALOHA-REPORTS-028432. Mr. Dry worked for Gibraltar from 2000-2018, where he became familiar with the construction and operation of the Gibraltar Hemingway Locking All-in-one Mailbox and Post. Mr. Dry graduated from Jones County Junior College in 1992 with an Associates in Arts degree, from Mississippi State University in 1995 with a Bachelor of Science, Industrial Engineering, and from the University of Southern Mississippi in 2000 with a M.B.A. A copy of his resume is attached to this letter.

Mr. Dry reviewed the video footage of the Kealohas' mailbox being removed from its post, as well as photographs taken before and after the mailbox was removed, and generated the schematics that were produced in discovery. Based on his familiarity with the product, its manufacturing, and testing, he concluded that if the mailbox was properly assembled and moved at the angle depicted on the video, the mailbox would not have detached at the top of the post, but instead would have detached at the base plate (causing significant damage). Mr. Dry will use the schematics and photographs to explain his analysis and conclusion that the mailbox was not properly affixed to the top of the post.

c. Supervisory Special Agent (SSA) Edwin Nam

SSA Edwin Nam is currently assigned to the FBI Headquarters, Cellular Analysis Survey Team as its western region supervisor. As part of his certification as a Cellular Analysis Survey Team member, SSA Nam has received specialized training in cellular networks and cellular phone related aspects of investigations and has assisted numerous federal and local law enforcement agencies with historical cell site analysis. He previously served as an FBI Special Agent in the Violent Crimes Squad in the Maui Resident Agency, and on the Criminal Enterprise Squad in the Honolulu Division. SSA Nam's curriculum vitae is attached, as well as several charts that he will use to explain historical cell site analysis during the period from June 19-23, 2013.

2. *Fed. R. Evid. 404(b) Notice*

The indictments returned in this case include allegations of financial malfeasance by K. Kealoha and Louis Kealoha ("L. Kealoha"). See ECF No. 17 (Indictment), ¶¶ 12-25; ECF No. 164 (First Superseding Indictment), ¶¶ 12-25. For example, in 2004, K. Kealoha was appointed guardian over funds owned by Ransen Taito and Ariana Taito, and opened two Trust Accounts belonging to the children worth a total of over \$160,000. Over the next several years, L. Kealoha and K. Kealoha used the funds in the Trust Accounts to pay for their personal expenses, and K. Kealoha provided false and misleading information to the Law Firm of James Bickerton and the Hawaii state court about the status of the Trust Accounts. This included K. Kealoha's use of the alias "Alison Lee Wong" to conceal from Bickerton her malfeasance in the Taito guardianship cases. See First Superseding Indictment ¶¶ 7(b), (c), (f). You have received in discovery various documents sent to or from James Bickerton and his firm, and other items of evidence, proving that K. Kealoha used the alias "Alison Lee Woing." See, e.g., KEALOHA-GJEX-BTI; KEALOHA-REPORTS-028151; KEALOHA-REPORTS-033170; KEALOHA-REPORTS-033176; KEALOHA-REPORTS-033549; KEALOHA-GJT-007795-97.

Letter to Counsel

U.S. v. Katherine Kealoha, et al., 17CR0582-JMS

February 7, 2019

Page 4 of 5

Additionally, during the same timeframe the Kealohas were spending the Taito's money, they were also defrauding Gerard Puana and Florence Puana. *See, e.g.*, First Superseding Indictment ¶¶ 17-25.

Much of the above evidence is either direct proof of the charged conspiracy, or evidence inextricably intertwined with the charged offenses, and is therefore not Rule 404(b) evidence. To the extent evidence described above falls within the scope of Rule 404(b), however, the United States will be offering it to prove the Kealohas' motive, intent, and plan to discredit Gerard Puana by causing his false prosecution for allegedly stealing their mailbox.

Finally, the United States may offer proof that K. Kealoha conspired with at least three other individuals to obstruct the federal grand jury investigation. *See generally United States v. Ebersole*, Case No. CR 18-0094 (Hawaii), ECF Nos. 1 (Information) and 12 at 3-7 (Factual Resume to Plea Agreement); *United States v. Taito*, Case No. CR 18-0001 (Hawaii), ECF Nos. 1 (Information) and 12, at 12-23 (Factual Resume to Plea Agreement). To the extent this evidence falls within the scope of Rule 404(b), the United States will be offering it to prove motive, intent, plan, absence of mistake and lack of accident.

3. *Authentication Pursuant to Fed. R. Evid. 902(11)*

Accompanying the productions from various third-party custodians were certificates of authenticity pursuant to Fed. R. Evid. 901(11). The United States intends to rely on such certificates in order to establish the authenticity and admissibility of various records of regularly conducted activity. *See* Fed. R. Evid. 803(6). Examples include phone records provided by cell phone carriers, financial records provided by banks, and business records obtained from manufacturers (such as Gibraltar Industries, discussed above).

4. *Summaries of Voluminous Records Pursuant to Fed. R. Evid. 1006*

The United States intends to call one or more witnesses to introduce summary charts of voluminous records that are otherwise admissible. Such charts will be offered under Fed. R. Evid. 1006, and may include summaries of telephone calls made or received by a defendant, financial transactions conducted by a defendant, or other groups of events or transactions more easily explained in a summary chart. We will provide you with drafts of such charts when they are available, and final exhibits will be provided closer to trial.

Letter to Counsel

U.S. v. Katherine Kealoha, et al., 17CR0582-JMS

February 7, 2019

Page 5 of 5

We reserve the right to supplement this notice with additional disclosures. As always, please feel free to contact us if you have questions regarding this notice or the discovery.

Sincerely,

MATTHEW G. WHITAKER
Acting United States Attorney General

ROBERT S. BREWER, JR.
United States Attorney

s/ *Eric J. Beste*

MICHAEL G. WHEAT

ERIC J. BESTE

JANAKI S. GANDHI

COLIN M. MCDONALD

Special Attorneys to the Attorney General

Signature Comparison

David L. Oleksow, FDE
Wildomar, California

KEALOHA-OLESKOW-000209

DAVID L. OLEKSOW

FORENSIC DOCUMENT EXAMINER

26402 Meadow Creek Lane

Wildomar, California 92595

(619) 595-7099 .

E-mail: droleksow@twc.com

DOCUMENT REPORT

DATE OF REPORT: July 19, 2018

CASE #: 16-064.2364

REQUESTING PARTY: AUSA Michael Wheat
US Department of Justice
United States Attorney, Southern District of California
880 Front Street, Room 6293
San Diego, California 92101-8893

CASE REFERENCE: Kealoha Investigation (MC15-00124-SOM)

SERVICE REQUESTED: Signature and Handwriting Comparison

QUESTIONED DOCUMENTS SUBMITTED:

Q1: One (1) machine copy of a City and County of Honolulu Department of the Prosecuting Attorney Computer Equipment, E-Mail and Internet Policy Agreement and Consequences of Violations, dated 05/17/13, title of "DPA" and questioned signature of Katherine Kealoha.

Attached as **Exhibit A** is a machine copy of the aforementioned questioned document.

KNOWN DOCUMENTS SUBMITTED:

K1: Original and machine copies of known documents bearing signatures, handwriting, hand printing and/or numbers previously listed in a Declaration dated January 30, 2017, and attributed to Katherine Puana Kealoha.

EXAMINATIONS REQUESTED:

It was requested that the questioned writings and signature on the questioned document be compared to the known writings of Katherine Puana Kealoha to determine whether she executed or did not execute the questioned writings.

PAGE 2 OF 2
CASE #: 16-064.2364
RE: Kealoha Investigation

METHODOLOGY:

The examination of handwriting and hand printing involves a detailed analysis of the handwriting characteristics of the known writer compared to the questioned writings. During each phase of the examination, details of the handwriting are considered, such as line quality, naturalness in the writing line, construction of letter formations, angularity of the letter forms, slant of the writing, baseline habits, directional movements, height ratios of one letter form to another, proportion of the letter forms, beginning, ending and connecting strokes, pen breaks between letter forms, accidentals, pen breaks, hesitations, retracing, fluctuation in pen pressure habits, letter and word spacing, and range of variation.

RESULTS OF EXAMINATION:

The following results are based upon the examination of machine copies and are subject to the limitations imposed by such an examination. The copy quality of the documents did not inhibit the evaluation of the writings submitted.

1. K1 (Katherine Puana Kealoha) shows good similarities with the signature, date and title on the Q1 document. Similarities are found in baseline habits, skill level, letter and number construction, slant of execution, size, angularity of letter and number forms, beginning and ending strokes, punctuation, abbreviated signature style and speed of execution.
2. Attached as ***Exhibit B*** are displays to be used at time of trial for demonstration purposes.

Examination Results:

K1 (Katherine Kealoha) probably wrote the questioned writings on the Q1 document. The questioned writings exhibit naturalness and fluency in execution and do not show indications of forgery.

A handwritten signature in cursive script, appearing to read "David L. Oleksow", written in dark ink on a white background.

David L. Oleksow
Forensic Document Examiner

EXHIBIT A



City and County of Honolulu
Department of the Prosecuting Attorney
Computer Equipment, E-Mail and Internet Policy

Agreement and Consequences of Violations

Notice: No Employee/Volunteer has any personal privacy rights or expectation of privacy with respect to any material received, sent, requested, or stored on or via his/her computer. All Employees/Volunteers are advised that the Prosecuting Attorney through the System Administrator or other agent designated by the Prosecuting Attorney, has access to all mail and user access requests. From time to time, at the direction of the Prosecuting Attorney, an employee's use of the system may, without notice, be monitored to assure efficient performance and appropriate use.

I have read the document entitled "Computer Equipment, E-mail and Internet Policy", of the Department of the Prosecuting Attorney, version effective May 1, 2013, in full and fully understand and agree to all the Terms of Conditions set forth therein. I understand that violations of this or other office policies may result in loss of access to office computer equipment, Internet, or e-mail systems and may result in discipline, suspension or termination.

Signature

KATHERINE KEALOHA

Print Name

DPA

Title

05/17/13

Date


EXHIBIT B


Questioned v. Known Signatures




Signature
KATHERINE V. LEONG



Writer's
A. Signature: 
Writer's
A. Initials:  Today's
Date: 12/1




X


X
Continuation of page 11 and have been given the opportunity to correct the test of my knowledge, and that I give

Date: 8-20-19 Signature Time: 262

Title & Date

Questioned Writings

Print Name

DPA

Title

05/17/13

Date

Known Writings

Aloha Pacific Deke

Detective Dan Akagi

Puana.

08/29/1970 6/21/13

523.50 1013.

512.90 5:00pm

Derrick Dry

11 Bentwood Lane · Laurel, MS 39443 | 601-422-3385 | derrickdry@gmail.com

Proficiencies

DESIGN

- Strong passion and knowledge of product design. More than 20 years AutoCAD and 14 years of Solidworks 3D design experience including parts made from metal fabrication, plastics injection, casting, and assembly. Familiar with 3D printing and DraftSite.

QUALITY

- Use of rigid stage-gate and first article inspection process to keep projects to expected quality, schedule, and cost. Strong math background and comfortable using calculations, 3d modeling function and interference evaluation, and physical inspection and testing to prove desired function and quality.

PROBLEM SOLVER

- Welcomes project challenges and opportunities. Motivated learner with an open-mind for finding new solutions.

MANUFACTURING

- Actively work with many different manufacturing materials including aluminum, steel, plastics, and thermosets. Also very familiar with designing parts for tooling efficiencies such as press brake, single hit or progressive stamping tooling, sand and injection casting, injection molding, rotational molding, blow molding. Knowledgeable of plant line layouts and equipment including logistics, fastening, assembly, and paint line.

PROJECT MANAGEMENT

- Proven leadership and management skills through years of being a project leader. Currently manage projects using MS Project or MS excel to track timelines and costs of projects for the entire life-cycle from concept to launch.

ORGANIZATION

- Extremely efficient and organized with information including past correspondence on projects, financial information, engineering changes, first article inspections. Proven dependable to keep and locate information for coworkers and managers dating years in the past.

TEAM PLAYER

- Leads and actively contributes to cross-functional teams to achieve project success. Very versatile and knowledgeable of other department's needs and challenges and have the ability to persuade and expedite action.

COMMUNICATION

- Maintain very detailed weekly project reports and communicates status as needed. Delegate clear, measurable, and achievable goals with required follow-up as needed to ensure that benchmarks are being completed on time. Use MS PowerPoint to create presentations.

SUPPLIER RELATION

- Extensive experience with vendors including many visits to domestic vendors as well as many trips to our China and Taiwan facilities for plant inspections, tooling validations, first article inspections, and first production approvals. Proven ability to develop great relationships while being firm on expectations of accountability. Substantial experience with translating technical and manufacturing information to vendors and can anticipate and monitor potential problem areas.

PLANT SUPPORT

- Well versed with supporting other departments as needed including providing technical support to customer service, expertise and design support to the toolroom for jigs, gauges, and tooling, assist as needed with engineering and production on line layouts and ideas to increase efficiencies.

Experience

Design and Development Manager

| 2009 - 2018 |

Gibraltar Industries

Manage new product development for the leading industry of rural mailboxes. Complete responsibility of off-site tooling, vendor relations, USPS compliance. Direct supervision of an engineer and engineer intern. Supply technical support to all departments including customer service, engineering, and production. Handle multiple projects typically completing 10-15 new product launches and 40-50 engineering changes per year resulting in \$2M or more effect to gross sales. Implemented better stage gate process to execute new product launches with increased efficiency and reliability. Developed new part numbering system for design projects which has helped reduce defects and rework. Launched project to convert 2D drawings from AutoCAD to Solidworks which resulted in eliminated work redundancies and confusion in the plant. Responsible for CapEx projects of approximately \$250K per year.

Product Engineer

| 2000 - 2009 |

Gibraltar Industries

Work directly with sales and marketing department to establish new product needs. Create and maintain product prints and establish quality standards. Organize and lead teams for the development of new products including prototyping, cost analysis, procurement, tooling, project scheduling, quality auditing, and manufacturing introduction. Monitor projects to ensure that ship deadlines are met and that projects are kept within budget. Initiate modifications to improve customer acceptability, product quality, manufacturing efficiency and/or reduce product costs.

Engineer

| 1997 - 2000 |

Free State Homes

Create and maintain all sales and production drawings and communicate all federal code revisions and customer changes to manufacturing.

Industrial Engineer

| 1995 - 1997 |

Hol-Mac Corporation

Conduct time studies and quality audits. Develop cost estimates, cost savings projects, plant layout, and material-handling processes.

Co-Op Engineer

| 1992 - 1994 |

Entergy Operations

Worked on budgets, costing, invoicing, and contract projects. Created presentation charts and drawings.

Education

Master of Business Administration

| 2000 | University of Southern Mississippi

Bachelor of Science, Industrial Engineering

| 1995 | Mississippi State University

Associates in Arts

| 1992 | Jones County Junior College

CURRICULUM VITAE



Edwin Nam

Supervisory Special Agent
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

PROFESSIONAL EXPERIENCE

Supervisory Special Agent (November 2018 – Present)

FBI Headquarters, Cellular Analysis Survey Team western region supervisor.

Special Agent (December 2010 – November 2018)

Special Agent Nam was assigned to the FBI Violent Crimes Squad in the Maui Resident Agency. Special Agent Nam was a member of the Hawaii Violent Crimes Task Force (HVCTF) and responsible for investigating bank robberies, Hobbs Act robberies, kidnappings, and violent fugitive cases. Special Agent Nam was a FBI Cellular Analysis Survey Team (CAST) certified field asset. As a CAST asset, Special Agent Nam utilized historical cell site analysis to determine the locations of violent criminal offenders suspected of armed robbery, murder and arson.

Special Agent Nam has received specialized training in cellular networks and cellular phone related aspects of investigations and has assisted numerous federal and local law enforcement agencies with historical cell site analysis.

Prior to his assignment to the HVCTF, Special Agent Nam was assigned to the Criminal Enterprise Squad in the FBI Honolulu Division. The Criminal Enterprise Squad was responsible for investigating Transnational Criminal Organizations involved in narcotics trafficking and money laundering. During his assignment with the Criminal Enterprise Squad, Special Agent Nam utilized cellular telephone analysis, both real time and historical, to locate narcotics trafficking subjects, evidence and money couriers.

Overall Special Agent responsibilities include: investigating felony offenses; preparing and serving search warrants; preparing reports of investigation; testifying at grand jury and at trial; conducting call pattern analysis; collecting and preserving criminal evidence; directing and advising Task Force Officers during preliminary investigations of felony crimes; conducting interviews and interrogations; and collaborating with local, state and federal law enforcement agencies.

EDUCATION

B.A. – Biology – Swarthmore College (2004), Swarthmore, PA

J.D. – Law – Villanova University (2010), Villanova, PA

PROFESSIONAL TRAINING & INSTRUCTION

FBI CAST Basic Cell Site Analysis Course, 9/2012 (3 days)

FBI CAST Advanced Project Pinpoint Course, 5/2015 (5 days)

FBI CAST Certification completed in June 2016 which included over 340 hours of training in:

Basic Cellular Technology
Mapping Foundations
Project Pin-Point Cellular Survey Analysis and Geo-Location Course

Global System for Mobile Communications (GSM) Technology
Code Division Multiple Access (CDMA) Technology
Universal Mobile Telecommunications System (UMTS) Technology
Long Term Evolution (LTE) Technology
Radio Frequency Theory
Location Based Services
Network Planning and Architecture
Network Survey and Analysis
Engineering Handsets/Drive Test Equipment Radio Frequency (RF)
Technology Review from Representatives and Engineers from the Major Cellular Service Providers

Harris Corporation – Harris Basic (RF technology company) – 2015 (2 weeks)
- Including detailed study in modern cellular protocols

FBI Presentation Skills Course, 11/2016 (3 days)

FBI CAST Recertification, 1/2017 (4 days)

FBI CAST Recertification, 4/2018 (4 days)

FBI CAST Basic Historical Cell Site Analysis – Instructor for county, state, and federal law enforcement. (2016 – present)

FEDERAL BUREAU OF INVESTIGATION CELLULAR ANALYSIS SURVEY TEAM



Cellular Analysis

Phone Number:	(808) 457-7265
Associated Name:	Derek Hahn
Mobile Network:	Sprint

SA Edwin Nam

Historical Cell Site Analysis



1. Background

The Federal Bureau of Investigation (FBI) Cellular Analysis Survey Team (CAST) analyzed cell phone records for the phone number (808) 457-7265 ("target cell phone"). The target cell phone was believed to be associated with a crime that occurred on 6/21/2013 at the Kealoha Residence, 1018 Kealaolu Avenue, Honolulu, Hawaii.

2. Methodology

An analysis was performed on the call detail records obtained for the target cell phone. The call detail records documented the network interactions to and from the target cell phone. Additionally, the records documented the cell towers and cell sectors ("cell sites") that served the cell phone during the activity. Used in conjunction, the call detail records and a list of cell site locations were analyzed to illustrate an approximate location of the target cell phone when it initiated contact with the network.

2.1 Cell Site Locations

Cell sites in existence during the time of the incident were input into mapping software using latitude/longitude coordinates provided by the service provider. The cell sites associated with the target cell phone were located using the mapping software and the plotted cell site data.

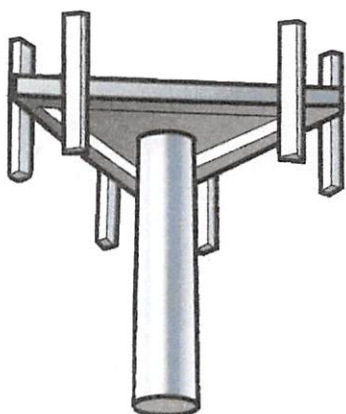
3. Conclusions

Historical cell site analysis was performed on the call detail records for the target cell phone. The methods detailed in Sections 2 and 2.1 were used to produce the following historical cell site analysis maps.

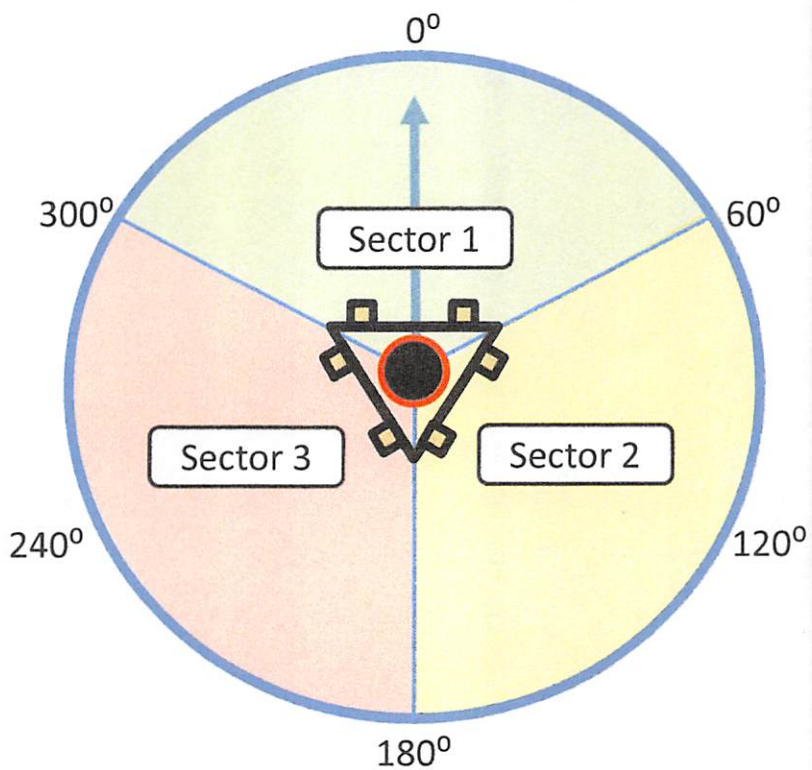
Sector Orientations Example

Each cell site orientation can vary.

Three Sector Tower



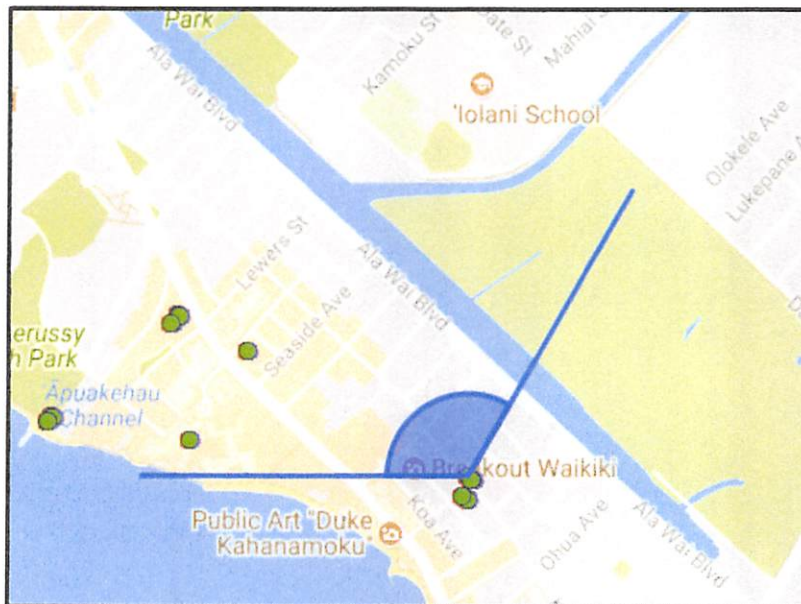
Three Sectors



Sector Usage Illustration



Cell towers and sectors showing usage are illustrated on the following maps using this wedge symbol:



The shaded area inside the sector arms demonstrate the direction the antennas on the cell towers were oriented, not the RF footprint or coverage area of the cell sector.

These symbols will be used in the following pages to illustrate the cell sites and sectors used during the time period of analysis and the general area where the cellular telephones were located.

Historical Cell Site Analysis

Cell tower activations

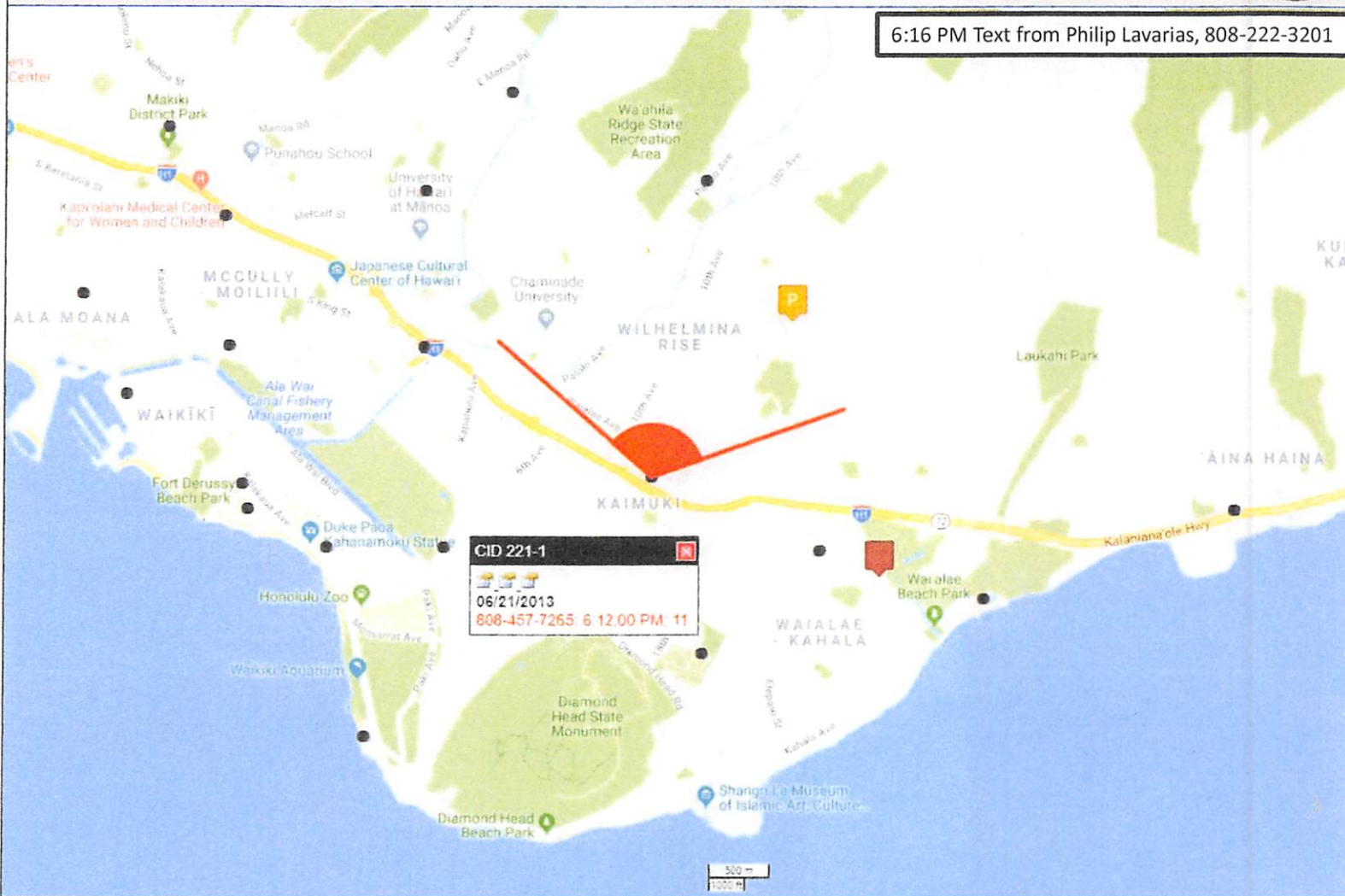
June 21, 2013 (HST)

Kealoha Res. - 1018 Kealaholu Ave.

Puana Res. - 3934 Nioi Pl.



6:16 PM Text from Philip Lavarias, 808-222-3201



Historical Cell Site Analysis

Cell tower activations
June 21-22, 2013 (HST)

 Hahn Res. - 7523 Lailua Pl.



Historical Cell Site Analysis

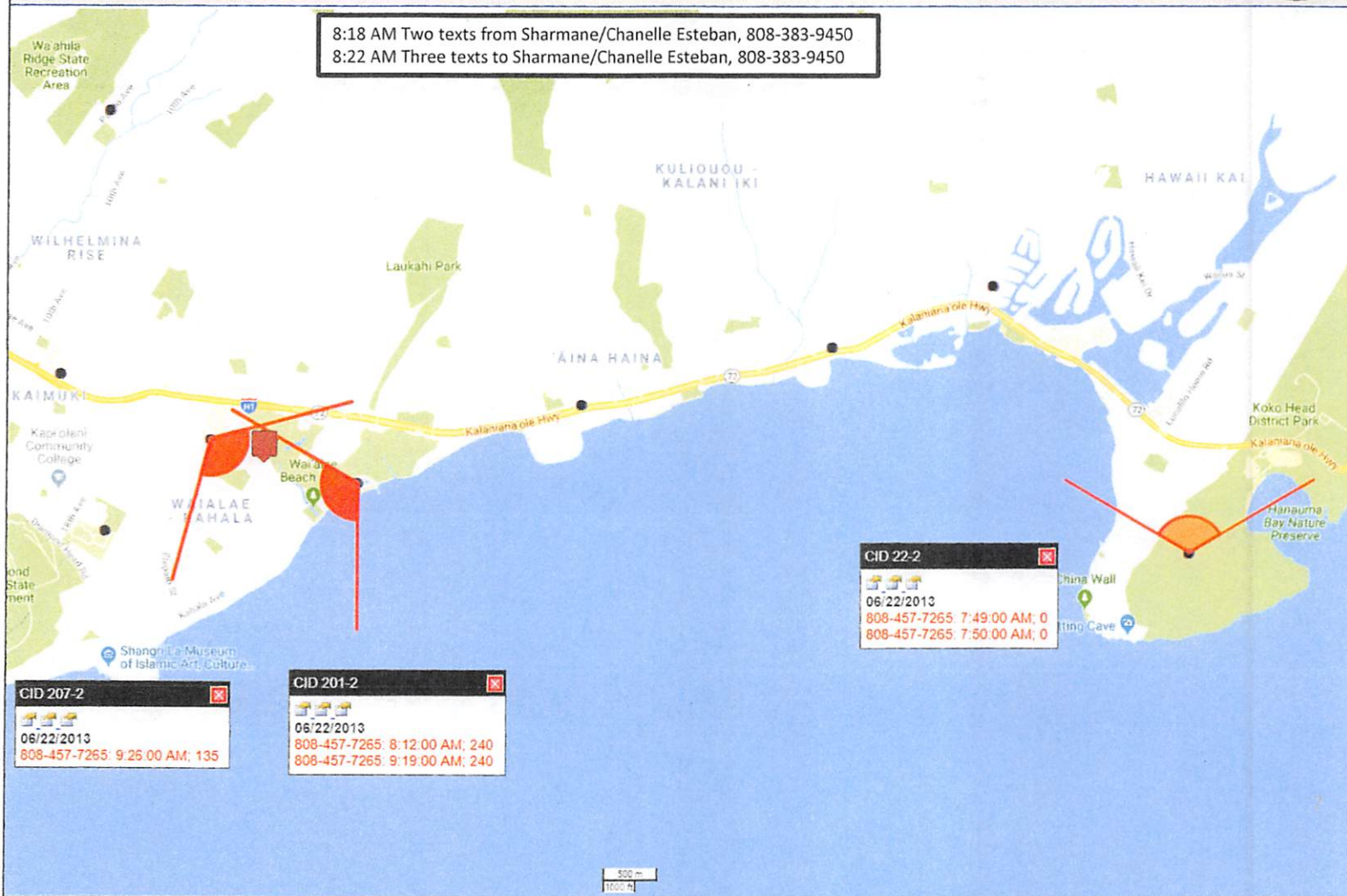
Cell tower activations

June 22, 2013 (HST)

Kealoha Res. - 1018 Kealaolu Ave.



8:18 AM Two texts from Sharmane/Chanelle Esteban, 808-383-9450
8:22 AM Three texts to Sharmane/Chanelle Esteban, 808-383-9450



Historical Cell Site Analysis

Cell tower activations

June 22, 2013 (HST)



Historical Cell Site Analysis

Cell tower activations

June 22, 2013 (HST)

Honolulu Prosecuting Attorney's Office - 1060 Richards St.
HPD - 801 S. Beretania St.

